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Letter dated 22 May 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached fifth report from Liechtenstein submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 16 May 2006 from the Permanent Representative of Liechtenstein to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I have the honour to refer to your letter dated 31 January 2006 and to submit herewith the fifth report of the Principality of Liechtenstein to the Counter-Terrorism Committee responding to questions raised by the Committee regarding Liechtenstein's implementation of Security Council resolutions 1373 (2001) and 1624 (2005).

(*Signed*) Christian **Wenaweser**
Ambassador, Permanent Representative

Enclosure*

Fifth Report of the Principality of Liechtenstein to the Counter-Terrorism Committee established by Security Council resolution 1373 (2001) 9 May 2006

With the following report, Liechtenstein is submitting additional information to the Counter-Terrorism Committee (CTC) established by resolution 1373 (2001), in accordance with the letter of the CTC dated 31 January 2006. Earlier reports are contained in documents S/2002/1253, S/2002/788, S/2003/273 and S/2004/254. The Government emphasizes that it continues to accord the highest priority to international cooperation in combating terrorism, and it views the dialogue with the CTC as a key element of this cooperation.

The structure of the report follows that of the letter of the CTC (Annex 1).

1. Implementation measures

1.1. Anti-Terrorism Package

On 22 October 2003, the Liechtenstein Parliament adopted the referenced Anti-Terrorism Package. The law entered into force on 10 December 2003 and is included with this report (Annex 2).

1.2 Terrorist groups; financing of terrorism

§ 278b criminalizes certain conduct in connection with terrorist groups. The definition of a terrorist group is given in paragraph 3: A terrorist group is an association of more than two persons, established over a period of time and aimed at the commission of one or more terrorist offenses by one or more of its members. Terrorist offenses are defined in § 278 paragraph 1 of the Criminal Code (*Strafgesetzbuch*, StGB). The degree of organization of a terrorist group corresponds to that of a criminal group.

On 2 October 2001, Liechtenstein signed the International Convention for the Suppression of the Financing of Terrorism ("Terrorist Financing Convention"), and ratified it on 9 July 2003. Article 2, paragraph 1(a) of this convention provides for a criminalization of the provision or collection of funds to be used to carry out an act which constitutes an offense within the scope

* Annexes are on file with the Secretariat and are available for consultation.

of one of the nine treaties listed in the convention's annex. Liechtenstein has ratified all of these treaties.

Supplemental to the Terrorist Financing Convention, paragraph 1(b) of resolution 1373 (2001) adopted by the UN Security Council on 28 September 2001 requires all States to criminalize the willful provision or collection of funds for the commission of terrorist acts.

To implement its international obligations, Liechtenstein included a new § 278d in its Criminal Code to combat the financing of terrorism. § 278d criminalizes the intentional provision or collection of assets for the commission of terrorist acts, independently of whether these acts were to be committed by one or more persons. § 278d entered into force as a component of the Anti-Terrorism Package on 10 December 2003 (see Annex 2).

1.3 Due Diligence Act

Liechtenstein has conducted a total revision of its Due Diligence Act. The revised law (see Annex 3) entered into force on 1 February 2005. The necessity of a revision arose primarily from Liechtenstein's obligation to implement the 2nd EU directive on money laundering. At the same time, the opportunity was used to incorporate the newest developments and international standards relating to the prevention of money laundering, organized crime, and financing of terrorism.

Focus areas of the revision include in particular an expansion of the object of the law and its personal scope of application, as well as a clearer definition of its substantive scope of application. The revised law now also deals with the suppression of terrorist financing and extends its scope of application to accountants, auditing companies, real estate brokers, traders in valuable goods, auctioneers, and gambling houses. In addition, new obligations relating to correspondence banking and electronic payments as well as risk-adequate global monitoring have been introduced.

Domestic implementation of the revised law has been unproblematic.

1.4 3rd EU directive on money laundering

Liechtenstein is a member of the European Economic Area (EEA). The 3rd EU directive on money laundering has not yet been officially incorporated into the EEA Agreement by the three EEA States, but incorporation is expected in the next few months. This will entail that the 3rd EU directive on money laundering will also become applicable to Liechtenstein and that it must be implemented into national law by the specified deadline. The need to amend national law is currently being reviewed.

1.5 Implementation of FATF SR IX

Liechtenstein has appointed a working group to implement FATF SR IX. Any need for amendments will be undertaken in the framework of the Customs Union with Switzerland. Requisite measures are currently being reviewed, especially to what extent a coordinated approach with Switzerland will be necessary.

1.6 Jurisdiction for offenses committed abroad

According to § 64 paragraph 1(10) Criminal Code (StGB), Liechtenstein criminal law applies to the following offenses committed abroad, irrespective of the criminal laws of the jurisdiction in which the offense was committed:

- leadership of or membership in a terrorist group (§ 278b),
- terrorist offenses (§ 278c),
- the following offenses committed in this connection abroad: theft according to §§ 128 to 131, blackmail according to §§ 144 and 145, falsification of documents (§ 223), and falsification of specially protected documents (§ 224).

However, at least one of the following conditions must apply in this regard:

- The perpetrator was a Liechtenstein citizen at the time of the offense, or the perpetrator acquired Liechtenstein citizenship later and still holds it at the time the prosecution is initiated; or
- the perpetrator's official or usual place of residence is in Liechtenstein; or
- the offense was committed for the benefit of a legal entity domiciled in Liechtenstein; or
- the offense was committed against the Reigning Prince, Parliament, the Government, a court, any other authority, or the population of Liechtenstein; or
- the perpetrator was a foreign citizen at the time of the offense, is present in Liechtenstein, and cannot be extradited.

The corresponding legal provisions (§§ 128-131, 144, 145, 223 and 224 StGB) are enclosed (Annex 4).

1.7 Charitable organizations

There are currently about 180 foundations and other legal entities in Liechtenstein with a charitable mandate. The procedure according to article 124 of the Law on Persons and Companies (*Personen- und Gesellschaftsrecht*, PGR) is a workable instrument that complements the other provisions of the PGR. While the PGR contains provisions intended to prevent the formation of legal entities with unlawful or immoral content, article 124 complements these provisions by providing the possibility of intervening against such entities and enforcing their liquidation at any time between formation and

termination. Article 124 expands these possibilities by expressly relying on the actual purpose of the entity: The actual activities are taken into account, rather than simply the purpose entered in the Public Register or included in the entity's bylaws. In addition, the circle of persons entitled to initiate action in accordance with article 124 PGR, in particular those affected and the Public Prosecutor, ensures that this provision can be applied as soon as irregularities become known.

1.8 Frozen assets; forfeiture

Six suspicious activity reports have been submitted to the FIU in connection with the suppression of terrorist financing. In none of these cases have investigations by the Office of the Public Prosecutor confirmed the suspicion of financing of terrorism based on the documents accessible in Liechtenstein. The proceedings have been suspended. All of the documents compiled in the course of these proceedings have been transferred to foreign authorities pursuant to requests for international legal assistance.

As already mentioned in the 3rd and 4th CTC reports, total assets in the amount of CHF 182,000 are currently frozen in Liechtenstein. This amount has not changed since the beginning of 2002. For an explanation of this amount, see paragraph 12 of the report submitted by Liechtenstein to the committee established pursuant to resolution 1267 (1999), published under S/AC.37/2003/(1455)/52.

In rem proceedings are available under Liechtenstein law, called *objective forfeiture proceedings*. This procedure is governed by §§ 356, 356a and 357 of the Code of Criminal Procedure. In practice, it is used primarily in economic criminal proceedings and could also be applied in terrorism proceedings. Currently, no such proceedings are pending.

1.9 Suspicious activity reports

193 suspicious activity reports were submitted to the FIU in 2005, 234 in 2004, and 172 in 2003. Just under 95% of the suspicious transaction reports are submitted by banks or professional trustees.

As the responsible authority for receiving suspicious activity reports, the FIU analyzes the submitted reports and decides on whether to forward them to the prosecution authorities. In the last 3 years, over two thirds of the suspicious activity reports have been forwarded to the Office of the Public Prosecutor. Additional information can be obtained from the annual reports of the FIU (Annex 5).

As explained in section 1.8, the criminal proceedings initiated in Liechtenstein pertaining to terrorist financing have been suspended.

1.10 Memoranda of Understanding with foreign FIUs

Since the fourth report, the FIU has concluded MOUs with Croatia, Poland, Georgia, Monaco, Russia, and Switzerland.

1.11 Accession to the Vienna Convention on Drugs; Palermo Convention

The Government plans to submit a proposal for accession to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) to Parliament after the summer break. Provided that Parliament gives its assent, the accession procedure will be completed in late autumn 2006. Liechtenstein's national legislation is already in compliance with the provisions of the 1988 Convention.

With regard to the United Nations Convention against Transnational Organized Crime and two of its Protocols, the Government has proposed amendments to national law that would be necessary to fully comply with these legal instruments. The public consultation on this matter also includes substantial amendments to the Criminal Code and the Mutual Legal Assistance Act in order to implement the 2nd EU directive on money laundering and the 40 revised FATF recommendations. After having assessed the results of this consultation, the Government will submit a bill to Parliament.

2. Implementation of resolution 1624 (2005); incitement to terrorism

2.1 – 2.3 Prohibition of incitement; safe haven; border controls

The call of the Security Council in resolution 1624 to take the "necessary and appropriate" measures relating to incitement of terrorist acts must be viewed in light of the special characteristics of the country, especially its manageable size. § 283 StGB prohibits all forms of discrimination and the propagation of hatred against persons on the basis of their race, ethnicity, or religion. Moreover, § 12 StGB criminalizes incitement of all types of offenses, including offenses relevant to terrorism. Persons present in Liechtenstein suspected of incitement are prosecuted by the responsible authorities or can be extradited to foreign countries pursuant to existing legal assistance obligations.

There is also no realistic danger that Liechtenstein could be used as a safe haven by persons connected with incitement to terrorist acts. Permits to stay in Liechtenstein are granted on a very restrictive basis. The procedure applies a quota system (currently a maximum of 56 permits a year). A prerequisite is proof of future employment in Liechtenstein. For this reason, persons granted permits are generally experts and specialists.

The granting of visas is administered by the Swiss authorities.

Liechtenstein's international border with Austria is controlled by the Swiss border police pursuant to bilateral customs and police cooperation agreements. Accordingly, the security standards correspond to those in Switzerland. Moreover, as there is no airport in Liechtenstein, no one can enter the country directly by plane. The Liechtenstein police have access to electronic databases to identify persons associated with terrorism. These databases are linked to the stolen travel document database of Interpol to check suspicious documents online immediately.

According to the Visa Waiver Program of the US Government, the risk is extremely low that Liechtenstein passports could be counterfeited or used as fraudulent travel documents by terrorists. Only one administrative office in Liechtenstein issues travel documents (to date, no blank passports have disappeared or been stolen). Moreover, since Liechtenstein travel documents always attract the particular attention of border guards, they are not useful to terrorists.

2.4 – 2.6 Intercultural dialogue, prevention, human rights

At the international level, Liechtenstein's efforts to strengthen dialogue among different countries, cultures, and civilizations include its active engagement at the United Nations. Liechtenstein often acts as a mediator and is engaged in strengthening the United Nations as a forum of multilateral diplomacy.

At the national level, the activities of the Office of Equal Opportunity are of particular note. On 21 March 2006, for instance, the "No Exclusion" billboard campaign was launched, which contains pointed statements relating to the problems of unequal treatment and racially motivated exclusion.

In June 2002, the Government appointed an inter-office Working Group against Racism, Anti-Semitism, and Xenophobia, which supports the coordination of Liechtenstein's comprehensive integration policy. With respect to integration policy as such, an integration policy framework is currently under development.

Liechtenstein places great importance on compliance with all standards of human rights and international law in the fight against terrorism on the part of all States and all responsible organs of international organizations. For a detailed explanation of the standards applicable in Liechtenstein and their implementation, please consult the relevant reports to the responsible bodies (e.g., ICCPR Human Rights Committee).

3. Technical assistance

Liechtenstein has offered technical assistance to the CTC relating to the suppression of terrorism (Annex 9 of the 4th CTC report). The offer relates to the following areas:

- Advice regarding effective implementation of Security Council resolution 1373 (2001), in particular with respect to the requirements for implementing legislation to combat the financing of terrorism;
- participation by Liechtenstein experts in seminars and training programs for legislative, executive, and judicial officials concerning measures to combat terrorism;
- advice and on-site support regarding the establishment of Financial Intelligence Units in all aspects, including legislative, technical, and administrative aspects.

Annexes:

1) Letter of the CTC dated 31 January 2006
2) Anti-Terrorism Package
3) Due Diligence Act
4) Excerpts from the Criminal Code (§§ 128-131, 144, 145, 223 and 224)
5) FIU Annual Reports from 2005, 2004